

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



August 7, 2002

TO: ALL PARTIES OF RECORD IN RULEMAKING 02-06-041

Decision 02-07-037 was mailed on July 25, 2002 without the dissent of Commissioner Peevey. Attached herewith is the dissent.

Very truly yours,

/s/ CAROL BROWN  
Carol Brown, Interim Chief  
Administrative Law Judge

CAB:rmn

Attachment

**Commissioner Michael R. Peevey, dissenting:**

The motivation behind this decision is public-spirited: the Commission wishes to preserve pipeline capacity necessary to serve all California natural gas customers. This order, however, is not the best way to accomplish that goal.

A very troubling aspect of this order is that it ignores long-standing Commission policy not to require investor-owned utilities to procure natural gas on behalf of non-core customers. That policy was based on a full discussion of the issue and the belief that non-core customers have the ability and expertise to procure gas economically on their own.

The majority also pays little attention to the fact that most of the consumer representatives commenting in this case, including the non-core representatives, were opposed to our requiring the utilities to undertake this responsibility on their behalf. In fact, practically all commenting parties were opposed to this order. It is highly unlikely that such near unanimous opposition is simply uninformed.

A truly galling aspect of this decision is that it sets a dangerous precedent by pre-approving utility actions and expenditures as reasonable. Since at the time of our vote, there were, and still are, many unknowns in the process, including how much capacity the utilities will be able to acquire, at what locations, and for what time periods, pre-approving utility actions brings significant cost risk to consumers. It also will lead to a contentious second phase in this proceeding to determine the allocation of such costs.

The majority decision also is an egregious example of “command and control” thinking. The majority apparently feels the Commission knows best how to serve California consumers and is loath to place the responsibility in the hands of the utilities and require them to perform to meet our expectations. It may very well be, for example, that there are other pipelines from which we could secure capacity more economically than the El Paso pipeline, which is almost universally acknowledged to suffer from operational problems. But we have not explored other options in this case. Instead, the majority seemingly simply acted on faith and having so acted, now undoubtedly will attempt to micro-manage the procurement process. Such micro-management ill-fits this Commission.

Finally, I do not believe that the utilities required this order from the Commission in order to sign up voluntarily for the turned-back El Paso capacity.

R.02-06-041

D.02-07-037

If one or more utilities had determined that additional capacity acquisition was necessary and in their best interests, in order to serve their customers reliably, they were and are always free to seek our approval of such deals and terms.

/s/ MICHAEL R. PEEVEY

MICHAEL R. PEEVEY

Commissioner

San Francisco, California

July 17, 2002